37 El Marques de la [illegible] 37

Con.

La Marquesa de la Sinada. [illegible] de la Ciudad de Londa.

Sobre.

Si el Juez ordinario de la de Cordoua, que como Apostolico estaua sediendo en el, hace fuerza en no hauer otorgado sus apellaciones en ambos efectos a dha Marquesa =

1 Sentencia del ordinario del obispado de Malaga en que declaro no hauer lugar el diuorcio que pretendia dha Marquesa [illegible] en el [illegible] de la [illegible] Instancia [illegible] en [illegible] del Marques, como [illegible] Juzgado [illegible] en que se declaro no hauer lugar [illegible] del Marques a la Restitucion de la Dote.

2 De que [illegible] Zorde Lebo de me Dora [illegible] por [illegible] [illegible] que se [illegible] [illegible] dha Marquesa, [illegible] de que pidio, [illegible] execucion contra los [illegible] de dho Marques sobre le pago de dha Dote =

3 Pendiente los autos sobre dho [illegible] el Marques de la Santa Sede [illegible] la Referida Sentencia del Metropolitano de Seuilla sobre el pretenso diuorcio, [illegible] Restitucion de Dote [illegible] en los autos, de que se [illegible] interpuesto [illegible] [illegible] para que los ordinarios, a quienes se [illegible] [illegible] Instancia =

4 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

5 [illegible]

... por el Marques de ... y ... ... por ... ... pomano, y pedido Remission, y que ... Marquesa ... se formo el articulo de no tener Responder por o estar ... Marques executoriales expedidas, y hauer entendido en la sentencia ... Virtud de que se despacharon.

6 La sentencia de dicho Metropolitano ... notifico ni hizo saber al Marques, ex quo aunque se pasó termino, y tiempo en que se deuio appellar no le pudo ... Juicio, ni excluirle de dicho Remedio, siempre que ... no ... en persona, si no ser bastante edictos, ni otras diligencias aunque ... como ... ... hecho.

7 Porque a decir personalmente de ... le conste las qualidades, y notificada assi es legitima la ... interpusiese dentro de diez dias, y assi le excluia la presumpcion ... la sentencia, y tiene perfecta, y no sierta que pueda excluir ... medio de la appellacion, como con m. ... ... 3. quest. 12. ex ... 7.

8 Y de la Marquesa, que de hauerse ... ... Marques en el ... executiuo ... en Virtud de las ... ... y pagado porcion de la ... ... hauer consentido la sentencia, y no se induce tal conocimiento: porque fue ... executado ex necessitate ex forma de nuestras leyes, ... en la quest. 17. ... 2. ...

9 De la appellacion ... ... fiscal ... ... derecho ... aunque ... ... no le ... Renunciar; sed ... ... commodum illius. Y assi ... Marques ... ... fiscal ... ...

10 ... ... actuales ... ... porque la sentencia ... ... fuit ... ...

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

11 Consanguineis de leni. et de [illegible] Cap. ex [illegible] [illegible] [illegible] [illegible] sumen. de [illegible] [illegible] Cap. [illegible] [illegible] Cap. 8 § 12 n. 12 Cum multis, en que no causa Cosa Juzgada, et in quocumque tempore se puede appellar, y reclamar.=

12 Y el [illegible] [illegible] [illegible] a [illegible] las Causas de divorcio se dispeuta [illegible] [illegible] [illegible] [illegible] [illegible] en que refiere sentencias pro utraque parte, y [illegible] [illegible] [illegible] Causa matrimonial, y que [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in Rem Judicatam.—

13 No empero [illegible] [illegible] [illegible] [illegible]: porque [illegible] le Consideraie [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] la Cosa Juzgada: porque fuera inique [illegible] [illegible] [illegible] ea quem Judicatum est [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Rei Judic. y seria [illegible], y [illegible] [illegible] [illegible] [illegible] [illegible]=

14 La Razon de no hauer Cosa Juzgada en [illegible] [illegible] [illegible] [illegible] la sentencia es [illegible] [illegible] [illegible] [illegible] [illegible] Como en todas las Cosas et [illegible] [illegible] [illegible] [illegible] [illegible] L. Sanctimus in fin. C. de sacros. eccles. Cap. [illegible] [illegible] [illegible] Cap. Cum infirmitas de [illegible], et [illegible] et en [illegible] [illegible] [illegible] que dixo el Cap. [illegible] Canonicum [illegible] C. [illegible] [illegible] [illegible] Ubique se deua observar el derecho Canonico [illegible] [illegible] Cap. [illegible] Rei Jud. Cap. fin. de [illegible] [illegible].—

15 [illegible] [illegible] [illegible] [illegible] [illegible] Cap. fin. de [illegible].—

16 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], et [illegible] [illegible]

Interuenire, vel Ual. Fasiq. [illegible] sag. enim ac Reg. protect. p. 2. Cap. 3 n. 16. [illegible]
p. 2 quest. 1. Nos. [illegible] enque Concluie, quibus [illegible]
[illegible] omitere, quam cum contientie periculo [illegible]
Cap. 4. de consuetud.—

17 Talvez, que aunque los Jueces no deuan [illegible] lo
su aux[illegible] sino pidiendolo las p.tes Ut in L. 4. § 8. ff. de dam.
et 5. § 14. Ubi DD. ff. de nouis oper. aliud ut sentendum
[illegible] de animas periculo, Ut probatur expreso in Cap. [illegible]
90. et ex Glos. in Cap. Cupientes, Uel si personas, Uerbo Com[illegible]
de electis. in 6.—

18 Y asi si la sentencia contiene error, [illegible]
[illegible] deuese [illegible]. porque no tuuo causa para el absoluer los
que tempore sedue [illegible] del Reo, si por nuevos testigos, o falsos
los que depusieron [illegible] pidiendo el Beneficio de la [illegible]
exclamata Generali, si quia mihi iusta causa [illegible]
el Juridicamente en la L. fin. ff. ex quibus causis maior
Refiere escas. Uo [illegible] lib. 3. Cap. 2 quest. 15.—

19 La prueba de la [illegible]
de esto in dicto Cap. [illegible]. Ubi [illegible] mandamus, quatenus
[illegible] nec [illegible] ex parte [illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]. Vos lugar.

22 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

chion para poder proseguir [illegible] apelacion [illegible] [illegible]

contra [illegible] error, [illegible], [illegible] [illegible] [illegible] [illegible]

23 [illegible] [illegible] la sentencia del [illegible] [illegible] [illegible] [illegible]

[illegible] ante su santidad [illegible] [illegible] [illegible]

[illegible]: porque [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

los fatales, o terminos, [illegible] [illegible] [illegible] [illegible]

anno [illegible] ex facto [illegible] [illegible] [illegible] [illegible]

cat, que guarda [illegible] prueba idem [illegible]. Vos lugar [illegible] 15 [illegible]

24 sentencia [illegible] [illegible] [illegible] Causa [illegible] [illegible] [illegible]

el Marques, que [illegible] non [illegible] [illegible] [illegible] [illegible]

defendere [illegible] Legitime, et [illegible] [illegible] [illegible]

suerte [illegible] non [illegible], Ut probatur [illegible] [illegible] [illegible]

in [illegible] [illegible]. Cap. [illegible] episcopus [illegible] [illegible] [illegible] 5

§. [illegible], et [illegible], [illegible] Greg. [illegible] [illegible] [illegible] [illegible]

25 [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] la [illegible], [illegible] [illegible] [illegible] [illegible] [illegible]

L. [illegible] [illegible] §. [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] 13 y 2. [illegible]

26 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] —

27 [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] en autoridad [illegible] Juzgado [illegible]
[illegible] [illegible], porque [illegible] [illegible]
D. [illegible] porque [illegible] determinan [illegible] la parada [illegible]
la [illegible] [illegible] ninguno [illegible] [illegible]
el recurso [illegible] la execucion; [illegible]
dela appellacion. [illegible]

28 Con [illegible] [illegible] [illegible]
de obrepcion ni subrepcion [illegible] expresado [illegible]
[illegible] la sentencia declarando [illegible] [illegible]
[illegible] restitucion de Dote, [illegible] appellado, [illegible]
amplia para conocer de [illegible] causas, [illegible]
[illegible] este rescripto [illegible] [illegible] [illegible]
Juez Apostolico. —

29 Con que concurre [illegible] [illegible] Bulla [illegible]
[illegible] con expresion dela [illegible] [illegible]
[illegible] [illegible] ordinario de Cordoua; [illegible]
[illegible] [illegible], [illegible] [illegible]
[illegible] [illegible] sobre la sentencia [illegible]
[illegible] [illegible], que [illegible]
[illegible] [illegible] — assi lo espera [illegible] —

D.or Gabriel [illegible]
[illegible]

[illegible]